

REMARKS

Claims 4 and 8 are pending. The reconsideration and allowance in view of the following remarks are respectfully requested.

Claims 4 and 8 stand rejected under 35 U.S.C. § 103(a) in view Ito et al. (U.S. Patent 6,470,266) and Inoue et al. (U.S. Patent 6,295,503). This rejection is respectfully traversed.

In rejecting independent claims 4 and 8 in view of Inoue et al. and Ito et al., the Examiner continues to misconstrue the teachings in the references. The Examiner's arguments are merely conclusory without support from the facts taught by the references. The Examiner assumes facts which are not present in the references or would make sense for one of ordinary skill to glean from the teachings of the references in making her rejection. This is improper and the only logical reasoning for coming to such a conclusion is based on impermissible hindsight.

Both Ito et al. and Inoue et al. have been thoroughly discussed in each of the previous responses directed to this rejection. Those arguments with respect to Ito et al. and Inoue et al. are hereby incorporated by reference. Essentially, in Ito et al., a route is searched and a map data is displayed for the user. The map data does not distinguish between restricted roads or unrestricted roads based on a condition of the vehicle when creating the route. The route is displayed to the user and the user commences on the route. Only when the user is approaching a restricted road does the system of Ito et al. notify the user of the restricted road. It is up to the user to determine whether to continue on the displayed route or to deviate from the displayed route.

In Inoue et al., this system requests a condition of the vehicle prior to searching a route. The user inputs the condition, for example whether there are multiple passengers or only a single

passenger in the vehicle, and the system determines a route which would allow the user to travel without having to deviate. Thus, the system takes into consideration restricted roads based on the condition of the vehicle prior to searching the route. The route is then searched and displayed for the user to use.

What is taught in Inoue et al. is that prior to searching a route the condition of the vehicle is determined. Whereas in Ito et al., a route is searched regardless of the condition of the condition of the vehicle and a pre-warning of a restricted road just prior to reaching the road is given to the user.

The Examiner argues in the section titled "Response to Arguments" that:

"it would have been predictable to one having ordinary skill in the art to combine these inventions in order to search for the shortest route first, as taught by Ito et al., but instead of having the driver determine at the restricted road if they can enter, urging a message to the user that restricted type roads are found in the route and finding out if the user can use the roads or not before displaying a set route. If not, then providing a new route to the user."

Ito et al. teaches searching a route and displaying it to a user. Inoue et al. teaches obtaining conditions of the vehicle, searching a route and displaying it to a user. There is no teaching of an intermediate step prior to displaying a route to a user or suggestion to do so within the references. Where in the references does it teach or suggest that a message is provided to a user prior to displaying any route that the immediate route search contains a restricted road and request setting the condition of the vehicle. Also, where is it taught that a route is re-searched (searched again) prior to display if the condition of the vehicle does not agree with the restricted road segments already searched? How does one of ordinary skill in the art glean this from the references?

The Examiner has not answered these questions. Only assumptions and conclusory statements are made to reach the above-noted conclusion by the Examiner.

The references don't teach or suggest all the claim features. For example, Inoue et al. requires providing conditions prior to searching and displaying a route while Ito et al. doesn't require conditions at all. Inoue et al. is exactly like the prior art discussed in the background section of Applicant's specification from which the present invention was designed to improve upon. If you require a setting of the conditions prior to searching the route, then the user must provide this information every time a new route is searched. Applicants cannot conceive how one of ordinary skill in the art would obtain the claimed invention by modification through Inoue et al.'s teaching based on Ito et al. which is a reference which searches and displays a route regardless of conditions of the vehicle. In Ito et al., the system never knows the condition of the vehicle. It just provides a warning which allows a user to make its own judgment of whether he is legally able to drive on a particular road or not. In any case, both Inoue et al. and Ito et al. display the search route without first performing an additional analysis when a route contains a restricted road. In fact, Inoue et al. teaches away from this concept by requiring conditions of the vehicle prior to searching the route.

The Examiner simply assumes facts not taught by any reference or that can be suggested by one of ordinary skill based on the teachings in the references themselves. This is impermissible. Under section 103, each element of the claim must be taught or suggested even if it is obvious to combine teachings of the two references, all the elements of the claims must be addressed and satisfied to formulate a proper rejection. The Examiner has failed to do this and has instead filled a gap in the teachings and suggestions of the reference with regards to elements

of the claims by making assumptions and conclusory statements without support from the prior art.

Therefore, Applicant respectfully submits that the rejection is improper and unfounded. Accordingly, withdrawal of the rejection is respectfully requested.

If the Examiner maintains this line of rejection, the Examiner is respectfully requested to contact Applicant's representative, Chad J. Billings, at the telephone number listed below to set up an interview with her and her supervisor.

Conclusion

For at least the reasons above, it is respectfully submitted that claims 4 and 8 are distinguished from the cited art. Favorable consideration and prompt allowance are earnestly solicited.

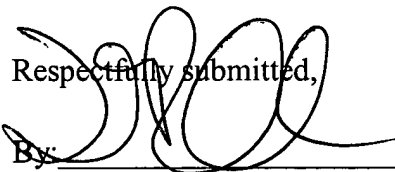
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings, Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No.: 10/773,181
Reply to Office Action of March 13, 2008

Docket No.: 1163-0491P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: May 19, 2008

Respectfully submitted,


By: _____
D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant